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#### IV. AMENDMENTS TO THE DRAWINGS

--- Replacement and annotated mark-up drawing sheets for amended figures showing the amended figures, if any, are attached at the Appendix hereto. Each figure is in compliance with 37 C.F.R. § 1.84. An explanation of the changes, if any, is set forth below in this "Amendments to the Drawings" section. Replacement drawing sheets are identified in the top margin as "Replacement Sheet." Any replacement drawing sheet including amended figures includes all of the figures appearing on the immediate prior version of the sheet. Any annotated drawing sheets, if the same are required by the Examiner, are identified in the top margin as "Annotated Marked-Up Drawings." Any deleted figure is noted by an instruction to delete the figure. Any corresponding amendment to the specification necessary to be made because of an amendment to the drawings in this section is made in the corresponding "Amendments to Specification" section. --

- OBJECTIONS
  - Claim Objection Under 37 C.F.R. §1.83
    - Examiner's Stance

The Examiner has objected to the drawings under 37 C.F.R. §1.83 excerpting a single sentence to the effect that the "drawings must show every feature of the invention specified in the claims." The Examiner urges on the basis of this isolated sentence that "therefore, the bag, wrapping paper and ribbon material must be shown or the feature(s) canceled from the claim(s)." The Examiner states that the corrected drawing sheets, with no new matter, must be entered in reply to the Office Action to avoid abandonment of the application. The examiner forcefully asserts that "objection to the drawings will not be held in abeyance."

- Applicant's Response

Applicant respectfully traverses the Examiner's objections asserting that the Examiner's interpretation of 37 C.F.R. §1.83 is not in accord with 35 U.S.C. §113 and the commentary to 37 C.F.R. §1.81, as set forth in form paragraph 6.22.01 of MPEP §608.02(d)). Each of these make it crystal clear that this phrase only requires a drawing when structural detail is NECESSARY or ESSENTIAL for the proper understanding of the

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disclosed invention. This simply is not the case here. There is simply no basis for asserting that the bag, wrapping paper and ribbon material must be displayed showing nothing more than what is already shown with the box. Respectfully, no reasonable person would find such drawings to be NECESSARY for understanding the claimed invention. Such newly discovered deficiency is tendered ALMOST A DECADE AFTER APPLICANT FIRST SOUGHT REISSUE. In fact, both the present Examiner's repeated searching of this application over a NINE YEAR period, and the underlying Examiner's searching of the patent application before issuance of the underlying patent sought to be reissued, without either raising any objection as to the lack of understandability of the claims, simply belies the argument that drawings are deficient, and that neither Examiner could understand the invention claimed. That is, that the subject matter of the patent claims could have been reviewed *in toto* by the Examiners for nearly a sixth of the average life expectancy of a human, without objection belies any reality to the assertion that the drawings are necessary for an understanding of the invention! Such newly found problem appears to be just another in a long line of actions in this case that continually ramp up Applicant's costs in prosecuting this case, for example, the repeated Notices of Non-Compliant Amendment that have issued in this case, each mysteriously never having been received by the applicant by mail, and which in the end have to withdrawn because they are improperly issued -- and which now causes Applicant to continually review Public Pair to elicit any other mis-mailed documents. And while these expenses continue to ramp up, Applicant is forced to continue to pay maintenance fees on a patent that has no worth until the reissue is completed, and may soon have no worth as the patent term approaches 20 years from the filing date!

Whether intentional or not, Applicant fully understands that a consequence of this objection is to place the Applicant into a Catch-22 situation. Applicant fully expects that given the nature of this reissue no matter what drawing Applicant provides to the Examiner, it will be rejected for adding new matter, irrespective of whether Applicant requests input from the Examiner (and possibly receives it) on how to proceed without falling into this trap. Applicant respectfully requests the Examiner's supervisor to remove this objection, which is clearly contrary to the factual history of this case, as well as 35 U.S.C. §113.

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## V. REMARKS

- STATUS OF THE CLAIMS

Claims 1 – 22 were pending before the office action in this case. Claims 4 – 14 and 17 – 20 have been found to be allowable.

Claims 1, 15, 21 and 22 are amended herein. Claim 1-3, 15, 16 and 21 - 22 have been amended to more clearly specify that the box and bag being referenced are gift boxes and gift bags not any box-shaped or bag-shaped item, as Applicant asserts would be understood by one of ordinary skill in the art reading the claims. Support for such amendments are found in the specification at, among other places, col. 1, lines 26-29, lines 51 – 56, and lines 60 – 66, and the original claims themselves.

- REJECTIONS

- Claim Rejection Under 35 U.S.C. §102(b) and (e)

- Examiner's Stance

The Examiner has rejected claims 1-3, 15 and 16 under 35 U.S.C. §102(c) as being anticipated by U.S. Patent No. 5,565,845 to Hara. The Examiner asserts that the device of Hara reads on each of the limitations of the claimed embodiments of 1 – 3, 15 and 16. The Examiner has also rejected claims 21 and 22 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,123, 192 to Hsieh, asserting that such device teaches all of the elements of the claimed embodiments.

- Applicant's Response

Applicant once during the interview of January 22, 2008, the Examiner indicated to Applicant that amendments made to claims 1 and 15, in limiting the "enclosing shell" to an "egg-shell" disclosure, likely placed the claims in condition for allowance. In regards to claim 21, the Examiner suggested the claims be drafted more carefully to indicate that in this embodiment that certain features were fabricated into the packaging material making up the packaging box. In respect to claim 22, the Examiner urged that the "electronic triggering

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device" limitation be removed, arguing that it added new matter in the sense that such limitation was not specifically recited in the specification. The Examiner suggested that the "packaging means" of claim 22 be limited to a group of items such as in claims 1 and 15, and if the applicant desired to select a detector that detects motion as the detection means that such be specified in the claim (the Examiner indicating that the latter also helped in defining a patentable distinction). In order to expedite allowance in this case, Applicant amended the claims as suggested by the Examiner. However, as has been the case since the filing of the reissue, Applicant finds the claims rejected once more.

Respectfully, the Examiner's citation to Hara is in apropos. Hara teaches an apparatus designed to monitor the number of golf clubs in a golf bag (Abstract, line 1 of U.S. Patent No. 5,565,845). It does not teach in any way a package amusement device comprising a packaging means for packaging a gift as in claims 1 - 3 , nor a gift bag as specified in amended claim 15. Applicant notes that the embodiments disclosed show the detectors associated with the club holding tubes or dividers not integrated with the bag as set forth in the rejected claims.

Likewise, the Examiner's citation to Hsieh in respect of claims 21 and 22 are in apropos. Hsieh teaches a "show window include[ing] a liquid crystal display plate which is alternately caused to become transparent in order to permit viewing of a static object displayed behind the window, and translucent in order to form a screen for projection of a slide onto the window in order to permit viewing of the slide through the window." (Abstract of U.S. Patent No. 5,123,192). It simply does not teach a gift packaging box as in amended claim 21, nor a gift box as recited in claim 22, as would be understood by anyone of ordinary skill in the art.

Therefore, Applicant respectfully asserts that the rejections under 35 U.S.C. §102(b) and (e) with respect to claims 1 – 3 and 15-16, and claims 21 – 22, respectively, should be withdrawn.

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CONCLUSION TO REMARKS

Applicant asserts that this application is in condition for entrance. Applicant respectfully seeks early allowance of the pending claims.

Date: December \_\_, 2009

Respectfully Submitted,

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## VI. APPENDIX

- *No appendix is intended to be attached*